

REMARKS

Responsive to the final Office Action mailed 13 May 2009 and with an extension of time of ONE MONTH, the present paper is timely filed on or before 14 September 2009, the first day after 13 September 2009 that is not a Saturday, Sunday, or holiday in the District of Columbia.

By the present paper, claims 43, 50, and 51 are amended and claim 46 is cancelled. Claims 43 - 45 and 47 - 51 are in the Application

Entry of the new claims and reconsideration of the Application are respectfully requested.

The Claim Amendments:

Claim 43 is amended to include the limitations of claim 46, now cancelled, which previously depended from claim 43. Applicants respectfully submit that support for the amendment is apparent.

Claim Rejections Under 35 U.S.C. § 112, paragraph second:

Claims 46, 50, and 51 stand finally rejected as allegedly indefinite. Applicants respectfully submit that cancellation of claim 46 renders rejection of that claim moot and that amendments to claims 50 and 51 cure any indefiniteness that may have existed.

Claim Rejections Under 35 U.S.C. § 102/103:

Claims 43 - 47 stand finally rejected under 35 U.S.C. § 102(b) as

allegedly anticipated by, or in the alternative under 35 U.S.C. § 103 as allegedly obvious over, Shimizu et al., United States Patent 5,228,932 (“the ‘932 patent”). For reasons set out below, Applicants respectfully traverse.

Claim 43 limits Cr to $> 17.5\%$ to 19% and Al to $> 2.5\%$ but less than 5% . The ranges of Al and Cr disclosed in the ‘932 patent envelop those of new claim 43. But the aluminum content specified in claim 43 spans a range of 2.5% Al, the ‘932 patent discloses a range of Al content 3 times larger (9% Al). The chromium content required by claim 43 spans a range of only 1.5% Cr, the ‘932 patent discloses a range of chromium content twelve times larger (18% Cr).

The ‘932 patent also fails to suggest let alone disclose the limitations on content of P and S required by Applicants claim 43. Accordingly, Applicants respectfully submit that the ‘932 patent cannot be said to anticipate claim 43, or any claim depending from it.

More important, the ‘932 patent neither teaches nor suggests an alloy having a linear deformation $< 4\%$ measured under conditions specified in the claim. Applicants were the first to surprisingly discover that excellent creep resistance in thin cross section, favoring plane stress and flow or yielding, even after exposure to high temperature, can be achieved in an oxidation-resistant Fe-Cr-Al alloy if and only if the alloy meets the very narrow compositional

limitations recited in claim 43.

For at least the forgoing reasons, Applicants respectfully submit that the rejection is improper and should be withdrawn.

Claim Rejections Under 35 U.S.C. § 103:

Claims 48 and 51 stand finally rejected as allegedly obvious over the '932 patent in view of the '032 patent. Claims 48 and 51 include the limitations of claim 43 and, for at least this reason, these claims likewise include patentable subject matter.

Claims 49 and 50 stand finally rejected as allegedly obvious over the '932 patent. Claims 49 and 50 include the limitations of claim 43 and, for at least this reason, likewise include patentable subject matter.

Conclusion:

Based on the forgoing amendments and remarks, Applicants respectfully submit that the claims are now in condition for allowance, which allowance is earnestly solicited. If, in the opinion of the Examiner, a telephone conference would advance prosecution of the application, the Examiner is invited to telephone the undersigned attorneys.